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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,890	07/07/2000	MAREK LAGODZINSKI		3134

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PATRADE INTERNATIONAL
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EXAMINER
WEEKS, GLORIA R

ART UNIT	PAPER NUMBER
3721	

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/582,890	LAGODZINSKI ET AL.	
	Examiner	Art Unit	
	Gloria R Weeks	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 July 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

1. This action is in response to applicants' amendment received on July 1, 2002 in Paper No. 15.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-~~24~~ 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melocco (USPN 5,901,894) in view of Dohl et al. (USPN 5,687,899).

In reference to claim 1, Melocco discloses an actuated piston tool with piston automatic return, comprising an external barrel (1) having a rear end; a guiding barrel (7) and a fastener guide (6) situated in the external barrel (1); a piston means (21) having a piston shank (8) and a piston head (9) and placeably moveably in the guiding barrel (7) between a firing position (figure 2) of the piston means (21) and a fastening position (figure 3) of the piston means (21) via an initial position of the piston means; a firing-pin assembly (2, 3, 13, 19; figure 1) situated at the rear end of the external barrel (1) and operatively connected to the external barrel (1); means for an automatic piston return of the piston means (21) from the fastening position (figure 3) to the firing position (figure 2) and situated on a piston shank (8) between the piston head (9) and the fastener guide (6), wherein the means (11) for the automatic piston return is a one-piece elastic returning bush (11) having a shape of bellows wherein the external and internal bellows (12)

diameters are regularly varied creating uniformly spaced swellings and narrowings and wherein the initial blocking position of the piston means (21) a sum of wall thickness of all segments created between neighboring narrowings and a length of the fastener guide (6) is slightly larger than a sum of a length of the piston shank (8) and a thickness of a fastener head (figures 2-3; column 1, lines 59-67; column 4, lines 6-17, 23-28). Melocco's disclosed piston tool is operated by high-pressure gas, not power. Dohl et al. teaches a power actuate piston tool with piston automatic return. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the high-pressure gas used to actuate the power tool of Melocco to use power as taught by Dohl et al.

Regarding claim 2 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein the one-piece elastic returning bush (11) approximates to a stack of truncated-spherical segments, or to a stack of frusto-spherical segments, or to a stack of frusto-conical segments, or to a stack of barrel-shaped segments and/or other surface of revolution segments (figures 2-3; column 1, lines 59-67; column 4, lines 6-17, 23-28).

With respect to claim 3 and its limitation as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a maximum internal diameter of at least one segment of the one-piece elastic returning bush (11) at its both ends, is smaller than a maximum diameter of the remaining segments of the one-piece elastic returning bush (11; figure 2, column 2, lines 65-67; column 3, lines 1-5).

In reference to claim 4 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein the end segment walls of the one-piece elastic returning bush (11) are thicker than other segment walls of the one-piece elastic retuning bush (11; figure 2 column 2, lines 32-35, 65-67; column 3, lines 1-5; column 4, lines 6-17).

Regarding claim 5 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein the internal end surface of external segments of the one-piece elastic returning bush (11) is markedly curved outside in such a way, that a center of curvature points is clearly distanced from the returning bush end face (figures 2-3; column 4, lines 6-17).

With reference to claim 6 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a length of the one-piece elastic returning bush (11) is selected in such a way, that in the initial blocking position of the piston means (21), the piston shank (8) end face does not reach its extreme forward position and remains at a distance from the base, the distance being greater than the thickness of the fastener head from a base (column 4, lines 18-22).

In reference to claim 7 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a maximum, external diameter of the one-piece elastic return bush (11) is smaller than an internal diameter of the guiding barrel (7), that in the initial blocking of the piston means (21), an external diameter of the one-piece elastic returning bush (11), still remains

smaller than the internal diameter of the guiding barrel (7), thus preserving a slight clearance (column 4, lines 23-28).

Regarding claim 8, Melocco discloses a power operated piston tool with a piston automatic return comprising an outer barrel (1) having a firing chamber (19) at a first end; a guiding barrel (7) mounted in the outer barrel; a fastener guide (6) having an outer surface at a thin end and mounted at a thick part in the guiding barrel (7) and with the thin end standing out from the outer barrel; a piston (21) provided with a piston head (9) placed in the guiding barrel (7) and a piston shank (8) inserted in the fastener guide (6) wherein the piston is movably positioned between a firing position (figure 2)and a fastening position (figure 3); a firing-pin assembly mounted at the first end of the outer barrel (figures 2-3; column 3, lines 37-40) and a hollow element (11) having a shape of bellows for causing an automatic return of the piston from the fastening position (figure 3) to the firing position (figure 2) and situated on the piston shank (8) between the piston head (9) and the fastener guide (6) and made of elastomeric material (column 2, lines 8-10) wherein an outer diameter of the hollow element (11) an internal diameter of the hollow element (11) are regularly varied creating uniformly spaced swellings and narrowings running circularly on an outer surface and an inner surface of the hollow element (11) and wherein between each two neighboring narrowings is formed a segment with a sinusoidal or a frusta-spherical or a frusta-conical or a barrel wall contour. Melocco's disclosed piston tool is operated by high-pressure gas, not power. Dohl et al. teaches a power actuate piston tool with piston automatic return. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

modify the high-pressure gas used to actuate the power tool of Melocco to use power as taught by Dohl et al.

With respect to claim 9 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a maximal inner diameter of at least one of the segments of the hollow element (11) at its both ends is smaller than an inner diameter of remaining segments ().

In reference to claim 10 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein walls of outer segments of the hollow element (11) are thicker than walls of inner segments (figure 2).

Regarding claim 11 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein an inner end surface of outer segments of the hollow element (11) is outwardly curved ().

With reference to claim 12 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a sum of wall thickness of all segments of the hollow element (11) and a length of the fastener guide (6) is slightly larger than a sum of a length of the piston shank (8) and a thickness of a fastener head (column 2, lines 29-35) thereby a piston shank (8) end face is distance from the outer surface of the fastener guide (6; figure 3) slightly more than the thickness of the fastener head in an initial blocking position of the piston (21; column 4, lines 18-22).

In reference to claim 13, Melocco discloses a power operated piston tool with a piston automatic return comprising an outer barrel (1) having a firing chamber (19) at a

first end; a guiding barrel (7) mounted in the outer barrel; a fastener guide (6) having an outer surface at a thin end and mounted at a thick part in the guiding barrel (7) and with the thin end standing out from the outer barrel; a piston (21) provided with a piston head (9) placed in the guiding barrel (7) and a piston shank (8) inserted in the fastener guide (6) wherein the piston is movably positioned between a firing position (figure 2) and a fastening position (figure 3); a firing-pin assembly mounted at the first end of the outer barrel (figures 2-3; column 3, lines 37-40); and a one-piece hollow element (11) formed of segments and situated on the piston shank (8) between the piston head (9) and the fastener guide (6) and made of elastomeric material (column 2, lines 8-10) wherein a sum of a length of the fastener guide (6) and a length of the one-piece hollow element (11) in a state when wall surfaces of neighboring segments of the one-piece element (11) are in an introductory contact is slightly larger than a sum of a length of the piston shank (3) and a thickness of a fastener head thereby a piston shank (8) end face is distanced from the outer surface of the fastener guide (6) slightly more than the thickness of the fastener head in an initial blocking position of the piston (figure 3, column 4, lines 6-22). Melocco's disclosed piston tool is operated by high-pressure gas, not power. Dohl et al. teaches a power actuate piston tool with piston automatic return. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the high-pressure gas used to actuate the power tool of Melocco to use power as taught by Dohl et al.

Regarding claim 14 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a

wall of each segment of the segments of the one-piece hollow element (11) has a sinusoidal profile (figure 2; column 1, lines 59-67; column 2, lines 1-7).

With reference to claim 15 and its limitations as state above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a wall of each segment of the segments of the one-piece hollow element (11) has a frustum of sphere profile (figure 2; column 1, lines 59-67; column 2, lines 1-7).

In reference to claim 16 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a wall of each segment of the segments of the one-piece hollow element (11) has a frustum of a cone profile (figure 2; column 1, lines 59-67; column 2, lines 1-7).

Regarding claim 17 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a wall of each segment of the segments of the one-piece hollow element (11) has a barrel profile (figure 2; column 1, lines 59-67; column 2, lines 1-7).

With reference to claim 18 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein a wall of each segment of the segments of the one-piece hollow element (11) has a frustum or barrel profile (figure 2; column 1, lines 59-67; column 2, lines 1-7).

In reference to claim 19 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein an inner end surface of outer segments of the one-piece hollow element is outwardly curved (figure 2; column 1, lines 59-67; column 2, lines 1-7).

Regarding claim 20 and its limitations as stated above, the modified apparatus of Melocco discloses a power actuated piston tool with piston automatic return wherein walls of outer segments of the one-piece hollow element (11) are thicker than walls of inner segments (figure 2; column 1, lines 59-67; column 2, lines 1-7, 32-35).

Conclusion

4. Applicant's amendments with respect to claims ~~1-8~~ 1-20 have been considered but are moot in view of the ground(s) of rejection.

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37. CFR § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UTNIL AFTER THE EN OF THE THREE MONTHS SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUEANT TO 37 CFR § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 6:30 am - 5:00 pm Monday-Thursday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7769 for regular communications and (703) 308-7769 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1789.

Gloria R Weeks
Examiner
Art Unit 3721

GRW

grw
August 27, 2002

EUGENE KIM
PRIMARY EXAMINER